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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/684,851

10/15/2003

Richard Alan McDonald

2960

33422 7590 04/25/2007
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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT

PAPER NUMBER

3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/684,851

Applicant(s)

MCDONALD, RICHARD ALAN

Examiner

Chapman E. Jeanette

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3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 4/10/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-12, 22 and 23 is/are allowed.
- 6) ☒ Claim(s) 13, 15-18 and 24 is/are rejected.
- 7) ☒ Claim(s) 14, 19-21 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13, 15-17 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Pondman (4306696). Pondman discloses a breakaway support assembly for securing overhead lines 2 to a supporting structure 3 comprising:

1. a support connector 6 attached to said supporting structure 3 securing the assembly to the supporting structure 3
2. an overhead line connection point 4
3. a stranded link member 8/18/14/13 secured to the support connector at one end and secured to the overhead line connection point 4 at the other end
4. whereby the link member will yield when force in excess of the tensile strength of the link member is applied to the overhead line connection point.
5. a stabilizing assembly 16 which includes an overhead line connection point 4
 - a. one end of the stabilizing assembly is disposed to receive and secure one end of the link member
 - b. the other end of the assembly includes the overhead line connection point
6. the overhead line connection point 4 is a separate member secured to the stabilizing assembly 16

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7. the link member has a lower tensile strength than the other components of the breakaway support assembly; see column 1 lines 50-55 and column 2, lines 45-50
8. means for attaching 19/20/4 the breakaway element to the overhead line
9. means for securing 6 said break away element 8/18/13/14 to the supporting structure 3
10. the breakaway element will yield upon the application of a load less than required to damage the supporting structure thus preventing damage to the supporting structure when the unintended force is applied to the breakaway support assembly

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over Pondman. It would have been obvious to compose the link member of corrosion resistant metal to protect the system against all types of weather conditions.

ALLOWABLE SUBJECT MATTER

Claims 14, 19-21 and 25 are objected to as depending upon a rejected base claim but would be considered allowable if amended to include the limitations of the rejected claim and any intervening claims

Claims 1-12 and 22-23 are allowable over the prior art of record.

Response to Arguments

Applicant's arguments filed 4/10/07 have been fully considered but they are not persuasive. Applicant is arguing more limited than what is claimed. Applicant is arguing a function but the claims are limited to structure; therefore, if the recited structure is shown by the prior art, the structure of the prior art merely has to be capable of performing the argued function. The structure of the prior art may not perform the function to the same degree of proficiency as the applicant argues, but intended use and function have little significance in deciding patentability to an article claim.

Applicant states that "Pondmanfails to adequately disclose the structural inclusion of a "stranded link; the term "stranded link member" is broad in its interpretation and is not associated with any specific or limiting structure. Pondman does identify stranded components 8/13/14/18 in his claim. He does not have to also do so in the specification. Pondman does graphically illustrate stranded components. See figure 1.

Contrary to applicant's arguments Pondman does teach the operation of multiple claimed elements in that is capable of achieving the functionality of a coordinated and controlled structural failure of components. See rejection above.

Further, Pondman does teach a stabilizing assembly to some degree though it may not function as applicant intended or argues. The claims do not recite any specific level of functionality to distinguish them from the prior art.

Applicant also argues that “pondamn neither claims nor discusses the concept that any of the components of his invention are designed for a coordinated failure.” Pondman does not have to “**claim or discuss**” this concept in order to show the elements exist. The specification can disclose the recited elements “**capable of**” performing “**to some degree**” the intended function. Pondman discloses the claimed elements as broadly as they are recited. Most mechanical elements will fail under a certain degree of force. As stated, applicant is not claiming a method of use or even a method that is so closely linked with the structure that no other structure will perform the argued method. There are no method claims; There is no recitation of the specific amount of force, how it is applied, how it causes failure. There is no recitation of the structure limiting the device to a component failure **in only a certain manner**.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

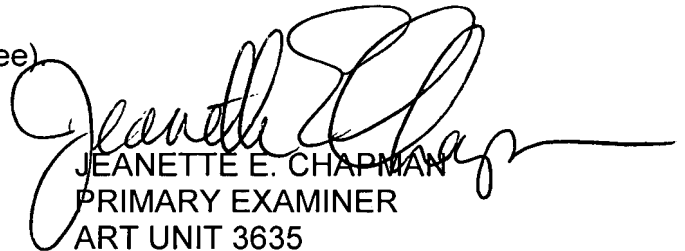
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAOKO SLACK can be reached on 571-272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JEANETTE E. CHAPMAN
PRIMARY EXAMINER
ART UNIT 3635
